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MORAL RESPONSIBILITY RESEARCH
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AGAINST A RIGHTS-BASED ETHICS OF RISK

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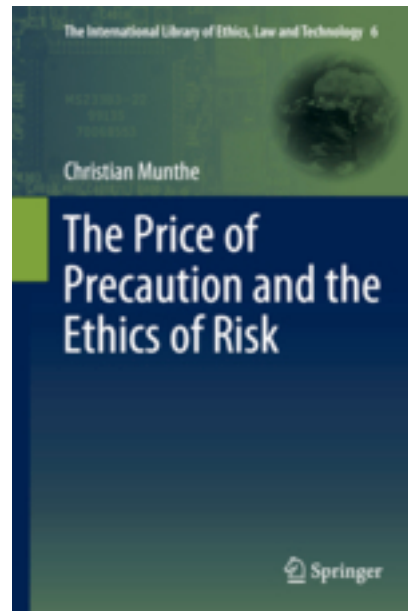
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What's this about?

- Attempt to revise a piecemeal and partly fragmented argument presented in my book on the ethics of precaution into a more assembled, coherent and salient form (esp. ch. 5-6).





What I'm *not* arguing

- That there should be no legal or institutional rights concerning risk impositions
 - There might be, but that's a pragmatic matter to be assessed once we have a basic ethics of risk in place
- That rights-based ethical theories may not apply to risk imposing actions
 - They might, to the extent that risks can be shown to be among the objects to which (basic moral) rights can apply – but that does not imply such an application makes for a sound ethical theory regarding risks.



Basic assumptions

- ... What Sven-Ove said (or what I guessed he would say):
 - (a) the ethical issues actualised by the phenomenon of risks, chances, uncertainty and ignorance **require new types of theoretical constructs** that say things about our decisions to act in ways that are *maybe (not)* right/wrong according to standard theories (of whichever family). (My book ch. 4, Sven-Ove's recent book, etc.)
 - (b) this requires that we concede the basic notion of **a (pro tanto) reason not to impose risks on people (or whatever moral patients we recognise)**, but lots of issues then remain to sort out (my own suggestion: ch. 5).
- Such a theory should set criteria for two things:
 - (a) **to what extent taking risks, acting on uncertainties/ignorance may be justified/unjustified** (in light of said reason, costs and benefits, options open, etc.), and
 - (b) what determines **whether or not we should in such situations improve our evidence** to close (somewhat) the uncertainty we face.
- Such a theory may to this effect attempt to apply elements familiar from traditional moral theories, e.g., the notion of a (basic) moral right.



What part of the theory a notion of "a right not to be exposed to risks" would enter into:

- Aggregation of the pro tanto reasons attached to different parties in cases of multi-party conflicts (very common!)
 - E.g., to what extent may one or a collection of such reasons of other people justify the imposition of a risk/cost to another person?
- The normative force and scope of the reason itself
 - Is the (pro tanto) wrongness of imposing risks on others always present, or only conditionally depending on the presence of further factors?



The notion of a basic moral right

(standard assumptions in the theory of moral rights, e.g. McCloskey, Tooley, Thomson, Feinberg, Dworkin, etc.)

- Aggregation individualism:
 - The infringement of a right of P may only be interpersonally justified with reference to an at least as important right of a specific other person, Q.
- Waiving requirement:
 - A right of P to X may always be waived by P: the duties of others towards P with respect to X in virtue of the right are active only insofar as P does not release them from it (typically by giving explicit permission).
- There may be valid moral reasons that do not conform to these conditions, but **these will not be (basic) moral rights**, but either unqualified and generally defeasible reasons (such as those accepted within consequentialism), and/or more akin to duties.



Aggregation individualism is incompatible with a sound ethics of risk

- A sound ethics of risk must deliver sound answers to pressing risk ethical issues, such as **the societal management of environmental and technological risk.**
- These **issues are about the aggregate risk levels that people produce collectively** – a sound social risk (safety) level is akin to a public good.
- This requires justification of the impositions of risks/costs on people (e.g., tax) to have them reduce their contribution to the collectively produced level, which will not match the risk that each individual's contribution poses to any one affected party.
- Thus: a sound ethics of risk needs to accept that the pro tanto reason against risk impositions can be balanced by collective aggregates of reasons which (conceptually) cannot justify the infringement of a right.



... and so is the Waiving Requirement:

- If the normative force of the basic reason against risk imposition is to be conditional on each individuals' insistence on having it observed by others, this means that single individuals could veto the justification of social reforms necessary to have the public good of an acceptable social risk/safety level.
- The reasons to produce and maintain such public goods cannot (plausibly) be so veto'd (albeit their justification might be undermined by valid moral reasons pertaining to individuals).
- Thus: the waiving requirement is not applicable to the pro tanto reason not to impose risks on others, and therefore the pro tanto reason making up the fundament of a sound ethics of risk cannot be a basic moral right not to be exposed to risks.



Conclusion

- We have a basic moral pro tanto reason not to impose risks on others
- The notion of this reason being a basic moral right is incompatible with basic requirements of a sound ethics of risk
- Thus: there are no basic moral rights against risk impositions
- **There might be derived such moral rights**, but these will not be part of the fundament of a sound ethics of risk, but rather need to be demonstrated on the basis of such a theory, or some other defensible ethical theory.
- There might be pragmatic reasons to implement social policies based on a sound ethics of risk in the form of different types of **legal** rights against risk imposition, but these most likely will not conform to either aggregation individualism or the waiving requirement.